



DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-911]

Paper File Folders from India: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable November 1, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3936.

SUPPLEMENTARY INFORMATION:

The Petition

On October 12, 2022, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of paper file folders from India filed in proper form on behalf of the Coalition of Domestic Folder Manufacturers (the petitioner),¹ the members of which are domestic producers of paper file folders.² The Petition was accompanied by antidumping duty (AD) petitions concerning imports of paper file folders from the People's Republic of China, India, and the Socialist Republic of Vietnam.³

¹ The members of the Coalition of Domestic Folder Manufacturers are: Smead Manufacturing Company, Inc. and TOPS Products LLC.

² See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam," dated October 12, 2022 (Petition).

³ *Id.*

On October 17 and 25, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.⁴ On October 21, 26, and 27, 2022, the petitioner filed timely responses to these requests for additional information.⁵

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of paper file folders in India and that such imports are materially injuring, or threatening material injury to, the domestic industry producing in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁶

Period of Investigation

Because the Petition was filed on October 12, 2022, the period of investigation (POI) is January 1, 2021, through December 31, 2021.⁷

⁴ See Commerce's Letters, "Petition for the Imposition of Countervailing Duties on Imports of Paper File Folders from India: Supplemental Questions," dated October 17, 2022; and "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Supplemental Questions," dated October 17, 2022 (General Issues Supplemental Questionnaire); see also Memorandum, "Phone Call with Counsel to the Petitioner," dated October 25, 2022 (General Issues Memorandum).

⁵ See Petitioner's Letters, "Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Questionnaire," dated October 21, 2022 (First General Issues Supplement); "Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Question #20," dated October 26, 2022 (October 26 Injury Supplement); "Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Second Volume I Supplemental Questions," dated October 27, 2022 (Second General Issues Supplement); and Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume V Supplemental Questionnaire," dated October 21, 2022.

⁶ See "Determination of Industry Support for the Petition" section, *infra*.

⁷ See 19 CFR 351.204(b)(2).

Scope of the Investigation

The product covered by this investigation is paper file folders from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

On October 17 and 25, 2022, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁸ On October 21 and 27, 2022, the petitioner revised the scope.⁹ The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).¹⁰ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.¹¹ To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on November 21, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 1, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the

⁸ See General Issues Supplemental Questionnaire at 3-4; *see also* General Issues Memorandum at 1-2.

⁹ See First General Issues Supplement at Exhibit I-S2; *see also* Second General Issues Supplement at Exhibit I-2S1.

¹⁰ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹¹ See 19 CFR 351.102(b)(21) (defining "factual information").

additional information. All scope comments must also be filed on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI of the receipt of the Petition and provided it an opportunity for consultations with respect to the Petition.¹³

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹³ See Commerce's Letter, "Invitation for Consultations to Discuss the Countervailing Duty Petition," dated October 13, 2022.

required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁴ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁵

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁶ Based on our analysis of the information submitted on the record, we have determined that paper file folders, as defined in the

¹⁴ See section 771(10) of the Act.

¹⁵ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁶ See Petition at Volume I (pages 11, 13-18, and Exhibits I-18 through I-26); *see also* First General Issues Supplement at 13-17.

scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁷

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided the 2021 net sales values of the domestic like product for U.S. producers that support the Petition, and compared this to the estimated total sales values of the domestic like product for the entire domestic industry.¹⁸ Because total industry production data for the domestic like product for 2021 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonable proxy for production data,¹⁹ we have relied on data provided by the petitioner for purposes of measuring industry support.²⁰

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²¹ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²² Second, the domestic

¹⁷ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* CVD Investigation Initiation Checklist, “Paper File Folders from India,” dated concurrently with this notice (India CVD Initiation Checklist), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People’s Republic of China, India, and the Socialist Republic of Vietnam).

¹⁸ *See* Petition at Volume I (pages 4-5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8-13, and Exhibits I-S1, I-S4, and I-S5; and Second General Issues Supplement at 4-5 and Exhibit I-2S2.

¹⁹ *See* Petition at Volume I (page 5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8 and Exhibits I-S1 and I-S4; and Second General Issues Supplement at 4-5 and Exhibit I-2S2.

²⁰ *See* Petition at Volume I (pages 4-5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8-13, and Exhibits I-S1, I-S4, and I-S5; and Second General Issues Supplement at 4-5 and Exhibit I-2S2.

²¹ *See* Petition at Volume I (pages 4-5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8-13, and Exhibits I-S1, I-S4, and I-S5; and Second General Issues Supplement at 4-5 and Exhibit I-2S2. For further discussion, *see* the India CVD Initiation Checklist at Attachment II.

²² *See* India CVD Initiation Checklist at Attachment II; *see also* section 702(c)(4)(D) of the Act.

producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²³ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁴ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁵

Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁶

The petitioner contends that the industry’s injured condition is illustrated by a significant volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; and adverse impact on the domestic industry’s performance

²³ See India CVD Initiation Checklist at Attachment II.

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Petition at Volume I (page 22 and Exhibit I-31).

and development and production efforts.²⁷ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁸

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of paper file folders from India benefit from countervailable subsidies conferred by the GOI. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 12 of the 14 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named eleven companies in India as producers and/or exporters of paper file folders.²⁹ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

In the event Commerce determines that the number of Indian producers or exporters is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of paper file folders from India during the

²⁷ *See* Petition at Volume I (pages 19-38 and Exhibits I-14 and I-27 through I-34); *see also* First General Issues Supplement at 17-21 and Exhibit I-S6; and the October 26 Injury Supplement at 1-2.

²⁸ *See* India CVD Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam).

²⁹ *See* Petition at Volume I (Exhibit I-17).

POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed in the “Scope of the Investigation,” in the appendix.

On October 31, 2022, Commerce released CBP data for U.S. imports of paper file folders from India under administrative protective order (APO) to all parties with access to information protected by APO, and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.³⁰ Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C’s website at <https://enforcement.trade.gov/apo>. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOI via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of paper file folders from India are materially injuring, or threatening material injury to, a U.S. industry.³¹ A negative ITC

³⁰ See Memorandum, “Countervailing Duty Petition on Imports of Paper File Folders from India: Release of U.S. Customs and Border Protection Data,” dated October 31, 2022.

³¹ See section 703(a)(1) of the Act.

determination will result in the investigation being terminated.³² Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³³ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁴ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.³⁵ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time

³² *Id.*

³³ *See* 19 CFR 351.301(b).

³⁴ *See* 19 CFR 351.301(b)(2).

³⁵ *See* 19 CFR 351.302.

limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in this investigation.³⁶

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁷ Parties must use the certification formats provided in 19 CFR 351.303(g).³⁸ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.³⁹

³⁶ See 19 CFR 301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³⁷ See section 782(b) of the Act.

³⁸ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

³⁹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 1, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Investigation

The products within the scope of this investigation are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term “primarily” as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

Excluded from the scope are:

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (*e.g.*, boxes or cartons);
- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;
- expanding folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (*i.e.*, raised relief patterns that are recessed on the opposite side), and/or debossing (*i.e.*, recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors other than the color of the base paper, and other than the printing of numbers, letters, words, or logos, each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;
- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size

documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and

- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

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